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REMARKS

The Examiner has maintained the current rejection. While applicant continues to disagree with the Examiner, applicant has incorporated the subject matter of at least one dependent claim into each of the independent claims in the spirit of expediting the prosecution of the present application. Since the subject matter of such dependent claim(s) was already considered by the Examiner, it is asserted that such claim amendments would not require new search and/or consideration.

Claims 1, 3-10, 12-19, and 21-27 stand rejected under 35 U.S.C. §102 for anticipation by USP 5,050,212 to Dyson. Applicant respectfully disagrees with such rejection, particularly in view of the amendments made hereinabove. Specifically, applicant has amended each of the independent claims to include the subject matter of former dependent Claims 5-9 et al.

In response to applicant's earlier amendments and arguments, the Examiner relies on Official Notice regarding applicant's claimed "directly compare[ing] the entire contents of said stored computer file with the entire contents of an archive copy of said computer file as stored when said stored computer file was created" (see this or similar, but not necessarily identical language in each of the independent claims). Further, the Examiner cites various references (see Jasma) to support such assertion, and further asserts that "[i]t would have been obvious to one of ordinary skill in the art at the time of invention to directly compare the entire contents of the stored computer files to determine alteration in order to make a more accurate judgment between the comparisons."

Applicant respectfully disagrees. First, Jasma citation fails to meet applicant's claims. Specifically, Jasma fails to suggest "directly compar[ing] the entire contents of said stored computer file with the entire contents of an archive copy of said computer file as stored when said stored computer file was created" (emphasis added), as claimed. Further, applicant respectfully asserts that it would not be obvious to directly compare the entire contents of the stored computer files to determine alteration in order to make a

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more accurate judgment between the comparisons, as such would require additional processing or resources.

With respect to the above limitations, the Examiner has simply dismissed the same under Official Notice. In response, applicant again points out the remarks above that clearly show the manner in which some of such claims further distinguish Jasma. Applicant thus formally requests a specific showing of the subject matter in ALL of the claims in any future action. Note excerpt from MPEP below.

"If the applicant traverses such an [Official Notice] assertion the examiner should cite a reference in support of his or her position." See MPEP 2144.03.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criteria has simply not been met by the Dyson reference. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has included the subject matter of Claims 5-9 et al. in each of the independent claims.

With respect to the subject matter of former Claim 5 et al. (now incorporated into each of the independent claims), the Examiner relies on the excerpt from Dyson below to meet applicant's claimed technique "wherein a subset of file types stored by said computer are subject to comparison by said file comparing logic and to creation of an archive copy for use with said file comparing logic" (see this or similar, but not necessarily identical language in each of the independent claims).

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"Step 7 shows comparing the first and second identifiers, to identify a possible match that would verify the integrity of the second file, that is, that the contents of the second file are identical with the contents of the previous first file. The match of the identifiers indicates to a high degree of probability that the files are identical, a degree dependent upon the uniqueness of the procedure applied to generate the identifiers, and the strength of the procedure in detecting changes and resisting intentional attempts to fool the procedure.

Step 8 shows verifying the second file on the computer. If the first and second identifiers have matched, it is safe to use or execute the second file, as safe as it was to use the first file. If the identifiers do not match, the second file is not verified, and the file can be rejected, or other error-handling steps initiated." (see col. 4, lines 10-25)

"FIG. 2 shows a flow diagram of steps taken to practice the method of this invention, a method for verifying the integrity of a file that has been stored separately from a computer. In a preferred embodiment this method is called a "file integrity check," or where the file is the initial executable file for starting the computer, a "boot protocol integrity check." It allows a computer to store and retrieve a file on a remote server over a network. Upon retrieval, an integrity check is performed to detect modification of the file before the computer uses the file, which can be at "boot" time in order to initialize the operations of the computer.

In FIG. 2, Step 1 shows preparing a first file for the computer. This could be a file containing data, or could be an executable file as distributed as an executable software product, or produced as the output of software development programs such as a compiler, linker or loader. In a preferred embodiment, a header is pre-pended to a body containing the data or instructions to form a file. The header is useful to carry information about the file, and includes two 32 bit random numbers generated as part of the header creation." (see col. 2, line 57 - col. 3, line 10)

Further, the Examiner argues that "Dyson discloses that the preferred embodiment examines boot file executables, and that the integrity check or file comparing logic is used on these subset of files." It appears that the Examiner has failed to consider the full weight of applicant's claims. Dyson merely suggests a compare operation associated with a particular type of file. Such reference, however, completely fails to make any sort of suggestion of a technique "wherein a subset of file types stored by said computer are subject to comparison by said file comparing logic and to creation of an archive copy for use with said file comparing logic" (emphasis added), as claimed. Only applicant teaches

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and claims conditionally foregoing the archival process based on file type, which avoids such processing in situations where those types of files are not to be subject to comparison later.

With respect to the subject matter of former Claim 8 et al. (now incorporated into each of the independent claims), the Examiner relies on the same excerpt from Dyson above to meet applicant's claimed technique "wherein said archive copy of said computer file is created for a subset of file types stored by said computer" (see this or similar, but not necessarily identical language in each of the independent claims). For at least the reasons set forth above with respect to Claim 5 above, applicant respectfully disagrees with the Examiner's assertion.

A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P457/01.011.01).

Respectfully submitted,  
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